

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)

VERIZON HAWAII INC.)

DOCKET NO. 05-0099

For Approval of Coral Wireless')
Adoption of the Negotiated)
Interconnection Agreement and)
Amendment No. 1 Between)
NPCR Inc., dba Nextel Partners)
and Verizon Hawaii Inc.)

DECISION AND ORDER NO. 21844

Filed May 26, 2005
At 1 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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_____)

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DECISION AND ORDER

The commission approves the adoption by CORAL WIRELESS ("Coral") of the negotiated interconnection agreement, and amendment thereof, between NPCR INC., dba NEXTEL PARTNERS ("Nextel") and VERIZON HAWAII INC. ("Verizon Hawaii")¹ for the provision of commercial mobile radio service ("CMRS") in the State of Hawaii (the "State").

I. Introduction

Verizon Hawaii filed Coral's adoption of the negotiated interconnection agreement between Nextel and Verizon Hawaii ("Underlying Agreement") and Amendment No. 1 to the Underlying Agreement ("Amendment") (collectively, the "Interconnection

¹Verizon Hawaii is now known as Hawaiian Telcom, Inc. ("Hawaiian Telcom"). See Docket No. 04-0140, *In re Paradise MergerSub, Inc., GTE Corp., Verizon Hawaii Inc., Bell Atlantic Comm., Inc., and Verizon Select Serv. Inc.* However, for consistency within the docket, we will continue to refer to Hawaiian Telcom as Verizon Hawaii, as referenced in its Petition.

Agreement") with the commission through a letter on April 25, 2005 ("Petition"), pursuant to Section 252(i) of the federal Telecommunications Act of 1996 ("Act").² The commission will construe Verizon Hawaii's Petition as a request for commission approval of Coral's adoption of the Interconnection Agreement.

Verizon Hawaii also filed an adoption letter dated January 21, 2005 ("Adoption Letter"), signed by representatives of Verizon Hawaii and Coral (collectively, the "Parties") as part of its Petition. Coral's adoption of the Interconnection Agreement is subject to the conditions and reservations set forth in the Adoption Letter.

Copies of Verizon Hawaii's Petition, with its various attachments, were served on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). The Consumer Advocate filed its Statement of Position on May 9, 2005 ("Statement of Position"), informing the commission that it does not object to Coral's adoption of the Interconnection Agreement.³

II. Background

A. The Parties

Verizon Hawaii is a corporation duly organized and existing under and by virtue of the laws of the State.

²The Act amended Title 47 of the United States Code ("U.S.C."). Section references in this decision and order are, thus, to those in 47 U.S.C., as amended by the Act.

³No "person" moved to intervene or participate in this docket.

It is engaged in the provision of varied telecommunications services to its customers and the general public within Verizon Hawaii's chartered territory in the State. Verizon Hawaii is an incumbent local exchange carrier, as contemplated by Section 252 of the Act. Coral is an authorized CMRS provider of intrastate wireless telecommunications services in the State.⁴

B. Coral's Adoption

The commission approved the Interconnection Agreement in Docket Nos. 98-0387 and No. 02-0138, respectively.⁵ In these dockets, the commission found that the terms and conditions of the Interconnection Agreement do not discriminate against other telecommunications carriers and that the implementation of the Interconnection Agreement is consistent with the public interest, convenience, and necessity.⁶

Coral's adoption of Nextel's Interconnection Agreement with Verizon Hawaii is permitted under Section 252(i) of the Act which states that:

⁴See, Decision and Order No. 21744, filed on April 14, 2005, in Docket No. 05-0018.

⁵See Decision and Order No. 16858, filed on February 18, 1999, in Docket No. 98-0387, *In re GTE Hawaiian Tel. Co. Inc. and Nextel West Corp.* (commission approved the Underlying Agreement) ("D&O No. 16858"); and Decision and Order No. 19489, filed on July 26, 2002, in Docket No. 02-0138, *In re Verizon Hawaii Inc.* (commission approved the Amendment) ("D&O No. 19489").

⁶See, D&O No. 16858 at 2 and D&O No. 19489 at 3.

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

The Adoption Letter sets forth, among other things, Coral's intent to adopt the terms of Nextel's Interconnection Agreement, enumerates Verizon Hawaii's position on certain matters with regards to the applicability of the Interconnection Agreement on the Parties, and indicates Coral's acceptance and views regarding certain portions of Verizon Hawaii's various positions.⁷ Moreover, the Adoption Letter: (1) sets forth additional terms which only apply to the Parties, including Verizon Hawaii's standard pricing schedule for interconnection agreements in the State, attached as Hawaii Appendix A; and (2) makes clear that the adoption of the Interconnection Agreement is for services in Hawaii.

C. Consumer Advocate's Position

The Consumer Advocate notes that the commission found the Interconnection Agreement to be non-discriminatory to other telecommunications carriers and consistent with the public interest, convenience, and necessity in D&O Nos. 16858 and 19489. Additionally, the Consumer Advocate states that aside from certain name changes and effective and termination dates it finds

⁷The following is specifically noted above the signature of Coral's representative: "[r]eviewed and countersigned as to points A, B, C, D, E and F of paragraph 1[.]" Adoption Letter at 6.

that there would be no significant changes" to the Interconnection Agreement upon Coral's adoption.⁸ While noting a concern regarding certain rates,⁹ the Consumer Advocate states that it "recognizes that interconnection agreements represent a negotiated contract and that the parties accept to abide by the terms and conditions included in the agreement."¹⁰ Moreover, it states that the observed concerns are "not material enough to result in a finding that the rates are objectionable or discriminatory towards any of the carriers for the instant matter" and that "it is not clear at this time whether the rates will need to be modified in the near future to reflect the cost of Hawaiian Telcom, as opposed to Verizon Hawaii", given the recent change in ownership.¹¹

The Consumer Advocate concludes that the Interconnection Agreement "does not discriminate against carriers not party to the agreement and that it appears to be consistent with the public interest, convenience and necessity objectives in the advancement of competition in telephone services pursuant to the" Act.¹² It also notes that the Interconnection Agreement will

⁸See, Statement of Position at 3.

⁹The rates in question are rates listed in Hawaii Appendix A for Reciprocal Compensation Traffic Tandem Rate and Tandem Transit Service Charge. The Consumer Advocate's specific concern is set forth on page 3 of its Statement of Position.

¹⁰See, Statement of Position at 4.

¹¹Ibid.

¹²See, Statement of Position at 5.

enable Coral to provide telecommunication services in the State under its certificate of registration ("COR").

III. Findings and Conclusions

Hawaii Administrative Rules ("HAR") § 6-80-54 requires all agreements regarding access, interconnection, unbundling, and network termination adopted by negotiation or arbitration be submitted to the commission for review and approval. The Interconnection Agreement is not an arbitrated agreement, but one that was negotiated and consummated by Nextel and Verizon Hawaii. The Adoption Letter, signed by the Parties, is a negotiated contract between Coral and Verizon Hawaii. Accordingly, we will regard the Interconnection Agreement as a negotiated interconnection agreement between the Parties and conduct our review under HAR § 6-80-54(b).

HAR § 6-80-54(b) states that we may reject a negotiated interconnection agreement if we find:

- (1) The agreement, or any portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or
- (2) The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity.

Consistent with D&O Nos. 16858 and 19489, the commission finds that the Interconnection Agreement does not discriminate against other telecommunications carriers and that the implementation of the Interconnection Agreement is consistent with the public interest, convenience, and necessity. The commission also finds that approval of Coral's adoption of

the Interconnection Agreement is consistent with federal requirements. Moreover, we recognize that our approval of the adoption will allow Coral to provide CMRS in the State as authorized in its COR, increasing competition in the State's telecommunications market.

Accordingly, the commission concludes that Verizon Hawaii's Petition for commission approval of Coral's adoption of the Interconnection Agreement, subject to the conditions and reservations set forth in the Adoption Letter, should be granted.

IV. Orders


THE COMMISSION ORDERS:

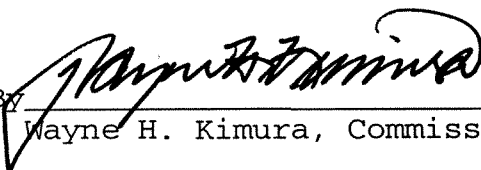
1. Verizon Hawaii's Petition, filed on April 25, 2005, for commission approval of Coral's adoption of the Interconnection Agreement, subject to the conditions and reservations set forth in the Adoption Letter, is granted under HAR § 6-80-54(b).


2. This docket is closed.

DONE at Honolulu, Hawaii MAY 26 2005.

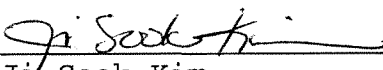
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21844 upon the following Petitioners, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

JOEL K. MATSUNAGA
VERIZON HAWAII INC.
P. O. Box 2200
Honolulu, HI 96841

ED KURZENSKI
CHIEF TECHNICAL OFFICER
CORAL WIRELESS
Seven Waterfront Plaza
500 Ala Moana Boulevard, Suite 400
Honolulu, HI 96813



Karen Higashi

DATED: MAY 26 2005